

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

No. C 03-00236 SI
(Civil No. 11-03083 SI)

Plaintiff,

v.

**ORDER DENYING CERTIFICATE OF
APPEALABILITY**

NIKOLAI TEHIN,

Defendant.

Currently before the Court is defendant's application for a certificate of appealability. A certificate of appealability should be issued "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). "Where a district court has rejected the constitutional claims on the merits, the showing required to satisfy § 2253© is straightforward: the petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). In this instance, defendant's current application raises arguments the Court already rejected in the Court's August 22, 2012 order denying defendant's motion to vacate, set aside, or correct sentence. Dkt. 203. Reasonable jurists would not "find the district court's assessment of the constitutional claims debatable or wrong." *Slack*, 529 U.S. at 484. Accordingly, defendant's application is DENIED. Defendant may seek a certificate of appealability from the Court of Appeals.

IT IS SO ORDERED.

Dated: September 25, 2012



SUSAN ILLSTON
United States District Judge